

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ABRAHAM CRUZADO,)	3:11-cv-00522-RCJ-WGC
)	
Plaintiff,)	<u>MINUTES OF PROCEEDINGS</u>
)	
vs.)	February 19, 2013
)	
DARREN BAKER, <i>et al.</i> ,)	
)	
Defendants.)	
)	

PRESENT: THE HONORABLE WILLIAM G. COBB, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: Katie Lynn Ogden REPORTER: _____ FTR

COUNSEL FOR PLAINTIFF: Abraham Cruzado, In Pro Per (Telephonically)

COUNSEL FOR DEFENDANTS: Brian Hagen

MINUTES OF PROCEEDINGS: Motion Hearing

1:34 p.m. Court convenes.

The court and parties address several pending motions. After discussion the court orders the following:

I. Motion to Compel Discovery (Dkt. #53)

According to the records of Mr. Hagen, defendants have responded to plaintiff's First and Second Requests for Production of Documents. Mr. Hagen indicates that the documents were mailed to plaintiff on January 25, 2013, which would render the instant motion to compel moot. Mr. Cruzdo agrees with Mr. Hagen.

Therefore, plaintiff's Motion for an Order Compelling Discovery for Plaintiff's Request for Production of Documents (First and Second Request(s)) (Dkt. #53) is **DENIED as moot**.

II. Motion to Compel (Dkt. ## 55 and 60)

Plaintiff advises the court that he voluntarily withdraws the motion to compel responses as to defendant's James Baca and Brian Henley. There is no objection made by defense counsel.

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Therefore, plaintiff's Motion to Compel Responses to Interrogatory No. 6, and Order to Compel Disclosure or Discovery (Dkt. #55) is **WITHDRAWN**. Furthermore, plaintiff's Motion to Compel Responses to Interrogatory No. 20 and Order to Compel Disclosure or Discovery (Dkt. #60) is **WITHDRAWN**.

III. Motion to Extend Time to File Discovery Motions and Motions for Summary Judgment (Dkt. #61)

The court inquires whether further discovery is necessary. Mr. Hagen indicates that he does not anticipate to propound any further discovery. Mr. Cruzado requests for the court to allow additional time for both discovery cut-off deadline and to file any dispositive motions. Mr. Cruzado indicates that pending before the court is a motion to compel which is subject to possible further responses by defendants should the court deem appropriate.

The court will allow for additional time for both the discovery cut-off deadline and the deadline to file dispositive motions; therefore, plaintiff's Motion to Extend Time (Dkt. #61) is **GRANTED**. The extended deadlines are as follows:

- Discovery Deadline: Friday, March 1, 2013
- Dispositive Motion Deadline: Friday, March 15, 2013

IV. Motion to Compel (Dkt. #49)

Plaintiff explains he is seeking for additional responses because the original responses to certain interrogatories as to defendant Darren Baker are either inadequate or unsatisfactory explanations as to their objections. Plaintiff explains that many of the responses concern a criminal investigation that was never prosecuted because many of the allegations were not found to be substantiated.

Mr. Hagen explains that plaintiff's argument furthers defendants' position that providing an inmate with a criminal investigation report would threaten the security and safety of the institution.

The court expresses its concern that defendants' responses may be too broad. In view of this concern, the court informs Mr. Hagen that, in anticipation of the defendants filing a Motion for Summary Judgment, it is the expectation of the court that any documents submitted within the dispositive motion are documents that have already been produced to Mr. Cruzado. Mr. Hagen asserts before submitting any Motion for Summary Judgment he will make certain either plaintiff has been provided the document(s) or the document(s) will be provided to him by the discovery cut-off deadline of March 1st.

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In light of Mr. Hagen's representation, plaintiff's Motion to Compel Responses to Interrogatories 1-20, and Order to Compel Disclosure or Discovery (Dkt. #49) is **DENIED without prejudice**. Should plaintiff find any of the additional documents or responses to the requests for interrogatories as to defendant Darren Baker unsatisfactory the court will entertain a renewed motion to compel.

V. Motion to Set Aside Dkt. #48 Notice re 4m Dismissal (Dkt. #58) and Motion for Defendants to Provide Address Under Seal re Robert Martinez (Dkt. #59)

Mr. Hagen informs the court that, prior to this hearing (January 28, 2013), he had inquired with Central Records the current address of Richard Martinez. Central Records confirmed that the address provided in Dkt. #17 is in fact the last known address as to Richard Martinez.

Mr. Cruzado requests that a sworn statement be required by the person who researched and provided the last known address of Richard Martinez.

The court explains that defendants have filed, under oath, the last known address as to defendant Richard Martinez in Dkt. #17. Furthermore, Dkt. #39 reflects that the U.S. Marshal attempted to serve Mr. Martinez but was unsuccessful because the "address given is vacant; unable to serve."

The court requests that a declaration be filed by the appropriate person from Central Records the outcome of a records search as to Richard Martinez. Based on the anticipated declaration being filed, the court determines that, at this time, plaintiff's Motion to Set Aside Dkt. #48 Notice re 4m Dismissal (Dkt. #58) is **DENIED without prejudice**; however should a more recent or updated address be confirmed, this matter will be readdressed. Furthermore, plaintiff's Motion for Defendants to Provide Address Under Seal re Robert Martinez (Dkt. #59) is **DEFERRED** pending the filing of the declaration by Central Records. The declaration shall be filed no later than **Friday, February 22, 2013**.

The court notes, should the declaration confirm the address provided in Dkt. #17 as being the most current address available for Mr. Martinez, plaintiff's motion Dkt. #59 will become moot and plaintiff's motion Dkt. #58 will remain in effect as being denied.

VI. Motion to Withdraw Dkt. #54 Response to Motion to Extend Time (Dkt. #56)

This motion was filed with regard to a prior opposition to a motion that has been ruled on by the court in Dkt. #52. In light of this, plaintiff's Motion to Withdraw Dkt. #54 Response to Motion to Extend Time (Dkt. #56) is **DENIED as moot**.

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The courtroom administrator is directed to send Mr. Cruzado an updated docket sheet.

IT IS SO ORDERED.

2:20 p.m. Court adjourns.

LANCE S. WILSON, CLERK

By: _____/s/
Katie Lyn Ogden, Deputy Clerk